

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ORDER CERTIFYING THE APPEAL IS NOT TAKEN IN GOOD FAITH
AND DIRECTING PLAINTIFF TO FILE UPDATED FINANCIAL
INFORMATION OR PAY THE FULL \$505 APPELLATE FILING FEE

Plaintiff Gerald A. Sanford, Sr., a prisoner acting *pro se*, filed a civil complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) The Court granted leave to proceed *in forma pauperis* and assessed the civil filing fee pursuant to the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 4.) On April 10, 2015, the Court issued an order granting summary judgment to the last three Defendants; judgment was entered on April 14, 2015. (ECF Nos. 153 & 154.) On May 4, 2015, Plaintiff filed a notice of appeal. (ECF No. 155.) For the same reasons the Court granted summary judgment, it is hereby CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3), that the appeal is not taken in good faith.

Generally, a plaintiff granted leave to proceed *in forma pauperis* is not required to pay filing fees. 28 U.S.C. § 1915(a)(1). Because Plaintiff is a prisoner, however, he must pay the entire \$505 appellate filing fee, although he may be able to take advantage of the installment payment method of § 1915(b). *See McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), partially overruled

on other grounds by LaFountain v. Harry, 716 F.3d 944, 951 (6th Cir. 2013). However, in order to take advantage of the installment procedures, a prisoner plaintiff must submit an updated *in forma pauperis* affidavit and inmate trust account statement. *Id.* at 610; 28 U.S.C. § 1915(a)(2).

In this case, Plaintiff did not submit an updated *in forma pauperis* affidavit and trust account statement with the notice of appeal. Therefore, at the present time, he is not eligible to take advantage of the installment procedures of § 1915(b). Plaintiff is, however, liable to the Court for the full \$505 appellate filing fee, which accrued at the moment the notice of appeal was filed. Accordingly, Plaintiff is hereby ORDERED to submit either the full \$505 appellate filing fee or an updated *in forma pauperis* affidavit and trust account statement within 30 days after the date of this order.

If Plaintiff fails to file the required documents in a timely manner, the Court will deny leave to appeal *in forma pauperis* and assess the entire \$505 filing fee without regard to the installment procedures, and the Sixth Circuit may dismiss the appeal for failure to prosecute. However, if Plaintiff timely submits the necessary documents and the Court finds that he is still indigent, then the Court will grant leave to appeal *in forma pauperis* and assess the filing fee in accordance with the installment procedures of 28 U.S.C. § 1915(b).

The Clerk is directed to provide Plaintiff with a copy of the prisoner affidavit form along with this order. The Clerk is further directed to notify the Sixth Circuit of the entry of this order.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE